SHOOTING AT SIGHT.

In every age of the Christian era, the religion of the Prince of Peace has been perverted by fanaticism or superstition into a conflict of arms between nations and forcible settlement of personal disputes between men. Crusades in the name of him who died on the cross to save the soul, which is the life of man, have been preached and prosecuted to the destruction of both body and soul. Catholicism and Protestantism have engaged in the strife, with alternate victory, and rivaled each other with the sword and fire of persecuting zeal.

To settle the title to a portion of that earth out of which the progenitor of the race was made, wager of battle was the only legal mode of trial in England from the advent of William the Conqueror to the reign of Henry II., if not during all the antecedent Saxon rule; and it had been in vogue in Germany from the beginning of the sixth century. It is as amusing as it is astounding to survey that trial, so solemn and yet so farcical it seems to us now. A piece of ground inclosed by lists was laid out as the scene of the combat; the justices of the Court of Common Pleas, full-robed and ermined, surrounded by the learned sergeants-at-law, sat in state, on an elevated bench, to survey the conflict; issue of right was solemnly joined between the contestants by an appeal on oath to God, each abjuring all enchantment and sorcery whereby the devil might be exalted and the Almighty debased.

During the same period, if one were suspected and accused of a certain class of felony, including the homicide of a relative of the accuser, an appeal lay to the same arbitrament of arms; and the *vadiatio duelli*, or wager of battle, duel, or single combat, was a personal legal right of every subject of the realm. The ground was staked off and inclosed with like particularity; judges sat in the same solemn array to preside over the appeal

to arms; the combatants, who must fight *in propria persona*, and not by proxy, were sworn with hands clasped, the accuser that the accused was guilty of the murder or other felony, and the accused that he was not; and thus the issue was joined by body against body, life against life, and the presence of the God of Peace was invoked to decide the judgment and sentence to be written in the one's favor in the heart's blood of the other.

So in the courts-martial, converted into courts of chivalry, points of martial etiquette or military dispute were settled by single combat, under the supervision of the Lord High Constable of England — certainly with much more propriety, it would seem, in cases of military differences than in civil actions for felony or to try title to land. The ordeal was abolished in France in the fourteenth century, not through the operation of reason and a comprehension of its absurdity, but because in a noted case its fallibility was demonstrated. In 1386, one Legris was accused of violence toward a lady. He maintained his innocence, underwent the ordeal, was vanquished, and thereupon was adjudged guilty and executed. After his death, another man confessed that he had committed the crime for which poor Legris was hanged. This occurrence created an impression which no argument on the preposterousness of the appeal could ever have produced and led to its abolition.

Yet the only mode of trying title — not the mere possession or right of possession to land, but the real right of property therein — in our mother country, until the reign of the second Henry in the latter part of the twelfth century, was by wager of battle or single combat. At that time the parliament, under the advice of Chief-Justice Glanvill, gave the parties the option of trying title to realty by the grand assize or jury trial; but the old right of trial by battle remained a legal mode until the latter part of the reign of George III., in 1818, when that remedy was abolished, together with those of appeals in felonies and in the courts of chivalry. Thus, till the present century, a legal method of settling rights of property in land was personal combat, usually fought by representatives of the litigants, until one or the other was slain or pronounced the word "craven," in which latter event he was thenceforth branded with infamy more intolerable than death.

Men will still fight for land and for revenge. As communities and individuals, they have always so fought. The American

continent is dominated to-day by races which conquered it. The red man occupies but a fraction of the immense hunting-grounds of his ancestors, and our greed for land will not long leave him even that. To re-adjust the boundaries between states and mark the lines of rival dominion, Europe has fought for centuries, and will probably continue to fight until the millennium. The martial roll of England's drum and the defiant scream of her fife, the roar of artillery and the rattle of musketry, the ships of war in which her "march is o'er the mountain wave" and her mariners make their "home upon the deep,"—these have established her title to that broad belt of empire which encircles the globe. The whole zone of her territory is as red as the uniform of her soldiers. Deep in its inmost recesses the heart of France feels the mortification of recent defeat and is aching for vengeance upon Germany. Stronger than love of republican or monarchical or imperial government is that agonizing heart-beat; and it needs but another Corsican's genius, ambition, and energy to give vent to its fury in a mingled wail and war-cry for revenge.

In the court-room to-day men will employ counsel more readily, and pour out fees more freely, for land and for revenge than for aught else of human property or passion. To settle the line between adjacent proprietors, though the dispute may involve the merest trifle of territory, the fight begins in the lowest and ends only in the highest court having jurisdiction. The same spirit that once wielded the sword and buckler now puts metal in the brain and sharpens the tongue of the advocate to settle the same rights and redress the same wrongs. It is but a change of forum and weapons; the passion that impels the contest, whether for greed or for revenge, is the same. He who wins passes still through the ordeal of nerve and perseverance.

Trial by battle, once so prevalent in Europe, was but another form of trial by ordeal, or appeal to the *judicium Dei*, which was in vogue among the Saxons, and continued after the conquest until the reign of Henry III. If the accused could take in the naked hand a bar of red-hot iron, or walk barefoot over red-hot plowshares, or thrust the bare arm into boiling water, and escape unhurt, his innocence was pronounced clear, because only God could work the miracle of his escape; and so it was argued, however illogically, that if two men try the other ordeal, of a contest with deadly weapons, the same Providence would shield

the innocent and overthrow the guilty. The assumption in all cases was that God would intervene for the right.

From the ordeal by battle or single combat, to try land titles, or felonies, or military disputes, by an easy leap sprang the ordeal by the "code" to settle affairs of honor. If the law of the land authorized the settlement of a disputed title, or a theft of goods, or a point of military etiquette, by duel, why should not an insult, a slander, a libel, a defamation of character, an offense to honor, a larceny of reputation, be settled in the same way?

By this course of reasoning, on the continent of Europe and in the island home of our ancestry, writers, generals, and statesmen gave to the duel the approval of their judgment and the sanction of their example. In the mother country, among the number who countenanced dueling, who challenged or fought on points of honor, may be found such great names as the Dukes of Marlborough and Wellington, of York and Richmond, Fox, Pitt, Castlereagh, Canning, Sheridan, Grattan, Curran, O'Connell, Peel, Disraeli, and Jeffrey.

In France, though she early abolished the ordeal by battle as a judicial proceeding, dueling has been carried to greater extremes than in any other country. During the reign of Louis XIII. two gentlemen held each other by the left hand and with the right stabbed with daggers. Two others shut themselves into a room and cut each other's throat. Richelieu tried hard to suppress the practice, and the Count de Bouteville was beheaded for it in 1627. Even women have fought duels in France; and, in Denmark, women were not permitted to have champions, but did their own dueling, though with certain allowances and advantages. Napoleon, who never shrank from slaughtering men by platoons, had a profound contempt for single combat, and did all he could to suppress the practice. Gustavus Adolphus, when two of his officers wanted to fight a duel, blandly gave them leave, but informed them that he would prepare a gallows for the survivor. Cromwell was equally opposed to it. For the first duel ever fought on this continent, which took place at Plymouth in 1621, the combatants were punished by being tied together neck and heels for several hours. When General Greene refused a challenge, Washington commended him.

But the foolish practice was not to be killed by the edict of any emperor, cardinal, or selectmen; it yields only to the slow process of time and the growth of public opinion. Ancestral

blood still flows in the veins of descendants; and in our country, almost to the present period, men of great renown sustained the duel by precept and example.

But great men have at last ceased to fight duels. Such men as General Charles Lee and Colonel Laurens, Generals Cadwallader and Conway, General McIntosh, and Button Gwinnett, of revolutionary fame, have retired from the lists. No Alexander Hamilton or De Witt Clinton or William H. Crawford now sacrifices or risks a life that belongs to the country on the altar of a strange god—strange to the very breath of true Christianity and to the civilization which that breath is everywhere warming into peaceful and beautiful life. No illustrious naval officer like Decatur is likely again to fall before the fire of a dueling pistol in the hands of a brother officer or a stranger to the service. No man like President Jackson will again live to regret, when crowned with all the honors of a great country, that he had once encouraged a practice which duty to that country and justice to its service required him to repudiate and forbid. Never more shall patriotic statesmen and orators like Clay, Randolph, and Benton make the walls of the capitol ring with eloquence, and yet risk the brain that conceived and the tongue that uttered such power on the chance of a shot. It should be remembered, in behalf of our dueling fathers, that the absence of those stringent laws which now, in most of the States of the American Union, make dueling felonious and disqualify for office all directly or indirectly engaged therein, gave them tacit license to follow that example of many illustrious men of Europe, which itself, as we have seen, followed the example set by law of adjudicating in a similar mode the title to land, the guilt of committing certain classes of crime, and the violation of the etiquette and discipline essential to the efficiency of military service. Had public sentiment, molded into law, been then as now, it is reasonable to suppose that they would not have deliberately violated the laws of that country which they loved so much and served so faithfully.

It may, too, be justly said that the field was open and the fight in a certain sense was fair. No mean advantage was taken of an antagonist, no concealed pistol was suddenly drawn and leveled with fatal effect at an unarmed man. Of such conduct, Mr. Benton well said: "Certainly, dueling is bad, and has been put down, but not quite so bad as its substitute—

revolvers, bowie-knives, blackguarding, and street assassinations, under the pretext of self-defense." Let us rejoice with him that dueling has been put down; but let us see to it that what he termed its substitute be buried in a deeper grave. The grog-shop and the concealed pistol are the roots of all this evil.

It is generally believed, not only that the settlement of personal difficulties with deadly weapons is more prevalent in the Southern than in the Northern States, but that public sentiment approves the practice on Southern soil. It may be conceded that the settlement of difficulties by the duel has been more common amongst us than with our Northern brethren, and that at the close of the late civil war affrays, riot, and bloodshed were of very frequent occurrence; but if all the facts are candidly examined, fair-minded men will be led to the conclusion that it is highly creditable to the old Southern civilization, and much to be commended in those who live amongst the graves of their fathers, that the disparity is not infinitely greater than it is.

In respect to the reasons which made the duel more resorted to in the South than in the North, it may be observed that the temper and tone of the two sections of our great country were infused into each by the blood which the fathers who settled them respectively brought across the water. New England derived hers in largest measure from Puritan settlers. Sturdy, courageous, energetic they were, as those who followed Cromwell to victory and the Protectorate; yet through all their character flowed veins of deep piety, which at times ran wild into superstitious fanaticism. But that force moved them as a community rather than as individuals. New England organizes before she moves. When she moves, the individual is swallowed up in the mass. Corporate power, aggregate combinations,—these have been the pillars of her strength, as they have been the habit of New England's life, and much of that life she imparted to the broad territories above the Ohio to the Pacific coast.

On the other hand, the dominant population of the South had more cavalier than Puritan blood in its veins. There was in its character more individuality and less capacity for combination; more dash and less deliberation in its action. It, too, had its faith in God and its reliance on him for the right, but its zeal was not always according to knowledge. Its individuality made it ready to fight on the instant; reliance on self grew out of

that individuality; it was not disposed to wait for company or for law; a word and a blow were instantaneous; and if the blow fell from muscle too strong, the heart was unconquered and panted for equal arms. Its faith, however erroneous, gave it reliance on protection and assistance from God in what it deemed a righteous cause. Hence the more frequent single combat, the prepared ground, the equal arms — the duel.

Reliance upon God for intervention on the dueling-ground was as much the fruit of faith, uncontrolled by reason, in the South, as the passage of blue laws and burning of witches was in New England. With the Southern fathers this faith often went to the extent of deeming it dishonorable and presumptuous to practice or prepare for the wager of battle. Knowing that an ancestor, whose honored name he bears, had figured largely in the politics of Georgia and of the Union, from the close of the Revolutionary War to the year 1806, when he died in the Senate of the United States, and had fought duels more than once during that period, the writer has recently read again the biography of that ancestor, and now transcribes the following paragraph:

"In March, 1780, he was unhappily the antagonist of Lieutenant-Governor Wells, in a duel which terminated fatally to the latter gentleman. He was himself shot through both knees. Confined by his wounds for months, refusing amputation, and abandoned by his surgeons, he was prevented from taking part in the military operations of the spring of 1780. Justice to him requires the declaration that, although he was forced into this difficulty by a gross personal indignity, which his honor as an officer and the spirit of the period compelled him to resent, and although he had done nothing wherewith to reproach himself, yet he afterward deeply lamented the dreadful catastrophe. He was no duelist from principle; he abhorred the practice. It was his lot on several occasions in subsequent life to be similarly involved; but he went always to the place of combat without preparation, with no vindictive passion, confiding in the rectitude of his cause, and convinced that duty to his country demanded the exposure of his person."

In like manner, many a duelist abhorred what he felt constrained to do, and deeply lamented a result fatal to his adversary. Another instance is within the knowledge of the writer: A felon, under the guise of friendship, obtained access to the fireside of a Georgian, and, during the absence of his host from home, dishonored his bed. A challenge and duel resulted in the death of the seducer; but he who was thus wronged, and thus avenged himself, went to his grave a miserable man. Often, instead of sleep at night, he walked his chamber in the anguish

of a conscience that would allow him no rest during the whole night.

In respect to the reasons which, at the close of the war, rendered the South more frequently a field for riotous conduct and bloody rencontre than the North, let the plain facts be submitted to a candid public judgment. Southern soil was the four years' battle-field of that war. It was practically a foreign war to the North. Rarely was a hostile foot on Northern ground. With the exception of Gettysburg, no battle-field bears a Northern name. President Lincoln, whose heart was big enough to forgive and forget, and whose hand would have restrained vengeance, was slain by an assassin, who cried, "The South is avenged!" Alas! poor South! how often has the folly or fanaticism of some erring child soiled the garment and stained the honor of the innocent and spotless mother!

After the war, there was a reign of bedlam in the South, and it seems almost miraculous that it did not become a reign of universal bloodshed. Of course, every man who could procure a pistol carried it, and, lest it should be taken from him by force, he carried it concealed. Despite the penalty of law, and its enforcement in the courts, too much of this habit lingers yet. With no such palliating circumstances, the same habit exists largely at the North. In fact, the whole country is badly afflicted with the awful plague.

It is unjust to judge an entire community by one man, or a great section by one little community therein, or by a portion of its inhabitants. The mass of the Southern population are as honest and earnest for a peaceful Christian civilization as the mass of the North. The echo of the public sentiment of a free people reverberates from the laws they make and the men they put into office to expound and enforce them.

The State of Georgia, at least, may invite comparison of her laws on the subject of dueling and carrying concealed weapons with those of any other. Any person who participates as principal or second in a duel in this State is disqualified for holding office; if death ensue, it is murder chargeable on all who participate; if any one sends or accepts a challenge, it is a misdemeanor punished by fine, imprisonment, or hard labor in the penitentiary; if any one consents to be a second while in this State, no matter where the duel is to be fought, the crime and penalty are the same; if a duel be fought and it does not

result fatally, the principals and seconds are all guilty of a high misdemeanor, and are punishable by imprisonment and hard labor in the penitentiary; if any one publishes another as a coward, or uses other opprobrious epithet toward him, for declining to fight a duel, he shall be held guilty of a misdemeanor, and punished by fine or imprisonment or the chain-gang, or all of these combined; if the printer of such publication fails to give the name of the author, he stands in his shoes and is punished in the same way; and if any peace officer neglects to put a stop to any contemplated duel of which he knows or has notice, he is dismissed from office.

So the act of carrying, openly or concealed, any deadly weapon to church, religious meeting, court-ground, election precinct, or any other public gathering, is a misdemeanor, and punishable with fine and imprisonment; and carrying such weapon concealed anywhere, in-doors or out-of-doors, on street, highway, or private path, is a misdemeanor and is punishable in the same manner. Grand juries are sworn to present all such offenders, and the Circuit judges are required to give these laws in special charge to grand juries at every term of the court. The judiciary of Georgia strive to enforce these laws, and day by day the evil lessens and crime diminishes.

The writer ventures to subjoin the concluding paragraph of the opinion of the Supreme Court of Georgia delivered by himself in the case of the State *vs.* Hill, reported in Sixty-fourth Georgia Reports, page 453. In 1879, Hill had premeditatedly killed a man who was guilty of adultery with his wife. A jury had pronounced him guilty of murder, and recommended that he be imprisoned for life, and he had appealed for a new trial.

"We add but a single remark: If men will take the law into their own hands, become themselves the judges of their own cases, and their own sheriff to execute the sentence they themselves pronounce, they must be certain that they adjudge the case according to law, and execute the sentence which that law pronounces, or they must suffer the consequences of their mistake of the law. Homicide for revenge of past offenses, however heinous, deliberately planned and premeditated, and carried into execution after reason has had time to assert her supremacy over passion, is murder; and he who judges that in his own case it is not, and executes sentence in such a case on a fellow-being, must suffer the penalty which the law imposes upon the murderer."

The people of the North, and of the world, may rest assured that life and limb and property are held as sacred at the

South as elsewhere, and her arms are spread wide to welcome capital and labor. She is conscious that she needs brain, muscle, and money to develop her rich resources and open her abundant mines of wealth. The day is past when her public men who declined a challenge lost their power and popularity. Prior to the war, Alexander H. Stephens challenged, at different times, Herschel V. Johnson and Benjamin H. Hill. Each declined the combat; yet neither ever lost a vote by it, but both descended peacefully to their graves, garlanded with flowers fragrant with Georgia's love and wet with her tears.

The day of the grog-shop and of that which it produces—the inflamed passion and the deadly weapon—is rapidly passing away. The local-option retail law generally pervades the State of Georgia; county after county prohibits the traffic, reduces expenses, and diminishes crime. The prosecuting officers of the State are paid according to the number of criminals tried; and they inform the writer that in those counties where this traffic is prohibited the office of Solicitor-General is worthless. Soon, let us hope, the generous Southern sun will shine upon an entire population, sober, prosperous, peaceful, and happy. May that population be swollen into a vast multitude by a tide of emigration which shall enrich every valley and cover every hill-top with good, sober, industrious men.

JAMES JACKSON.